



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



C. HEIDI GRETHUR
DIRECTOR

May 31, 2018

CERTIFIED MAIL – 7016 0340 0001 0595 2292
RETURN RECEIPT REQUESTED

Mr. John Wagner
Diamond Chrome Plating Inc.
604 South Michigan Avenue
P.O. Box 557
Howell, Michigan 48844

Dear Mr. Wagner:

SUBJECT: Reimbursement of Past Costs; Diamond Chrome Plating Facility (Facility);
604 South Michigan Avenue, Howell, Livingston County;
Facility ID No.: 47000202

Thank you for recently taking the time to meet with the Department of Environmental Quality (DEQ) staff on February 21, 2018. During the meeting the question of Past Response Activity Costs payments was discussed and the DEQ staff indicated a response would be forthcoming. The DEQ staff have reviewed Diamond Chrome Plating Inc.'s (DCP) compliance with the requirements of Section VI of the First Amended Consent Decree (FACD), No. 03-1862-CE, and have determined that pursuant to Section 15.1, DCP was to make payments of \$69,003.19 on June 30, 2016, December 21, 2016, and December 31, 2019, subject to potential waivers, to reimburse the DEQ for Past Response Activity Costs.

Pursuant to Section 6.7 of the FACD, a Contamination Investigation (CI) was to be completed by June 30, 2016. At the request of DCP, this deadline was extended by the DEQ to September 30, 2016. Section 6.7 further requires the CI to achieve the objectives in Section 6.1(c) of the FACD, which provides that DCP shall... "conduct complete investigations of soil and groundwater contamination at the Facility to fully define the vertical and horizontal extent of contamination and an evaluation of groundwater contamination by analysis of contaminant concentrations over time on and off the Property." The objective of the CI is to assess Facility conditions in order to prepare a Conceptual Site Model (CSM).

In a March 22, 2017, letter to DCP, (Attachment A) the DEQ indicated that an evaluation of the status of the CI would be completed upon receipt of the CSM. An evaluation of the CSM by the DEQ determined that the vertical and horizontal extent of contamination on and off the property had not been fully defined. These data gaps and areas of incomplete definition were previously communicated to DCP in the December 28, 2017, denial of CSM letter (Attachment B). Based on the incomplete definition of the vertical and horizontal extent of contamination, the DEQ has determined that the CI failed to meet the performance objectives set forth in Section 6.1(c) of the FACD and, as a consequence, was not completed by the agreed upon extension date of September 30, 2016. Therefore, pursuant to Section 15.1 of the FACD, DCP is responsible for the payment of \$69,003.19 that corresponded with the CI due date.

With regard to the CSM, pursuant to Section 6.8 of the FACD, DCP was to prepare and submit to the DEQ a CSM by December 31, 2016. At the request of DCP, this deadline was extended by the DEQ to March 31, 2017. The CSM was to determine the necessary remedial actions

needed to achieve the performance objectives pursuant to Section 6.1(e) of the FACD. An email copy of the CSM was received March 31, 2017, followed by a paper copy on April 3, 2017. During the DEQ's review of the CSM, several appendices were found to be missing. A complete paper copy, including missing appendices was received by the DEQ on August 30, 2017.

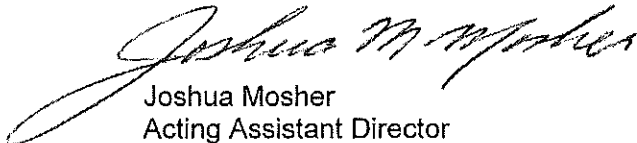
The DEQ has determined that DCP completed the requirement to submit a CSM by the agreed upon extension date and waives and releases the payment of \$69,003.19 for Past Response Activity Costs that corresponded with the CSM due date.

Please note that per Section 6.8(b) of the FACD, DCP must implement response activities on and off the property no later than April 1, 2017, with all physical components of the remedial action constructed and fully operational by no later than December 31, 2019. The DEQ will evaluate fulfillment of this requirement after the December 31, 2019, deadline.

Pursuant to Section 15.4 of the FACD, all payments made pursuant to Paragraphs 15.1 and 15.2 shall be made by check and sent to the Accounting Services Center at the address listed in Paragraph 13.1(a)(vii) of Section XIII of the FACD. Please designate "Diamond Chrome Plating Inc. Facility" the Ingham County Court Case Number and the DEQ Account Number MUL 3011 on the check. Please submit the required payment of \$69,003.19 within 30 days of receipt of this letter.

If you have any further questions regarding this matter, please contact Ms. Rebecca Taylor, Project Manager, 517-284-5160; taylorr@michigan.gov; or DEQ, Lansing District Office, 525 West Allegan Street, Lansing, Michigan 48909; or you may contact me.

Sincerely,



Joshua Mosher
Acting Assistant Director
Remediation and Redevelopment Division
517-284-5134

Attachments

cc: Ms. Wendi Michaels, BB & E
Mr. Todd Fracassi, Pepper Hamilton, LLP
Mr. Brian Negele, Michigan Department of Attorney General
Ms. Kathy Shirey, DEQ
Mr. Dennis Eagle, DEQ
Ms. Rebecca Taylor, DEQ
Mr. Dan McGeen, DEQ
Mr. Bryan Grochowski, DEQ
Ms. Carla Davidson, DEQ
Ms. Lisa Agosta, DEQ
Ms. Maureen Nelson, DEQ
Ms. Alexandra Clark, DEQ
Mr. Malcolm Meade O'Brien, DEQ

ATTACHMENT A



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

File DCP
DEQ
C. HEIDI GRETHUR
DIRECTOR

March 22, 2017

Mr. John D. Wagner, P.E.
Director of Health, Safety and Environmental Affairs
Diamond Chrome Plating, Inc.
P.O. Box 557
Howell, Michigan 48844

Dear Mr. Wagner:

Thank you for your letter of February 1, 2017, to Environment Deputy Director Robert Wagner, Department of Environmental Quality (DEQ), concerning proposed modifications to the July 28, 2015, First Amended Consent Decree (FACD) between the DEQ and Diamond Chrome Plating, Inc. (DCP). Mr. Wagner recently retired and I am currently the Environment Deputy Director for the DEQ.

Your letter states that DCP has suffered a decline in business that has created significant financial stress on its ongoing operations. For that reason, DCP submitted various proposals and requests to modify the FACD. We appreciate the proactive proposals so that DCP can continue compliance with its obligations. In order for the DEQ to consider DCP's requests, the DEQ is requesting documentation of the current financial situation of DCP. Proper documentation includes signed copies of the last five years of your federal and Michigan business tax returns and complete financial statements for the last five years. We appreciate your quick response to our request and understand that DCP is under new ownership with only two years of tax returns and financial statements under the current owner. So that the DEQ can properly evaluate DCP's financial condition with respect to the FACD obligations, DCP will also need to submit the last three years of this information under the previous owner, as well as a listing of realty holdings and other assets along with copies of DCP's tax bills for real and personal property. The list of required documentation was previously provided to you in an e-mail dated February 28, 2017, by Ms. Angela Brown, Enforcement Specialist, Water Resources Division (WRD), DEQ. When DCP documents its financial condition, the DEQ will consider the financial modifications to the FACD proposed by DCP. Additionally, any amendments to the FACD or requests for extensions need to be sought through the established mechanisms provided in the FACD.

The first of your proposals is to not pay this year's required \$100,000 escrow fund deposit. DCP proposes to use these funds for the replacement of the roof's west ductwork. The escrow fund deposits are meant to be used for long-term response activities at the site, not routine foreseeable maintenance such as the replacement of 20-year-old air pollution control ductwork. Although the west ductwork will eventually need to be replaced as agreed upon under Paragraph 5.3(e) of the FACD, it is not mandatory at this time. Furthermore, according to the Midwest Air Products invoice that you submitted with your letter, the cost for replacing the west ductwork is only \$60,669. The requirement to conduct inspections of

all ductwork and control equipment on a daily basis while in production is mandated in Paragraph 5.3(b) of the FACD and by your National Pollutant Discharge Elimination System (NPDES) permit, which is enforceable under Paragraph 5.4(a) of the FACD. You have replaced half of the ductwork since the FACD was signed, so the inspection time required has already been reduced. Your request to reduce the frequency of inspections is not approvable at this time but may be proposed again six months after all of the ductwork is replaced and the absence of leaks over time is documented. Please be aware that an NPDES permit modification will be required before the inspection frequency can be reduced. Since storm water runoff at your facility is treated, the DEQ sees no environmental benefit for you to use the 2017 escrow fund deposit monies for the maintenance and replacement of the west ductwork.

Further, you propose that DCP not return to making the annual escrow fund deposits until "one year of demonstrated improved financial condition." As you know, the escrow fund deposits are mandated in Section VIII, "Financial Assurance," Paragraph 8.1(c), of the FACD, for response activities. The deposits are to continue annually until implementation of response activities on and off of the property are completed or the funds are sufficiently accumulated in excess of funds needed to meet response activity obligations, implement closure plan obligations, and meet the requirements of MCL 324.20114d. Evaluation of this request will be made upon receipt and review of DCP's financial information.

Meanwhile, DCP has three very important upcoming deadlines pursuant to the FACD:

1. Per Paragraph 6.7, the investigation of the contamination is to be completed by June 30, 2016 (the DEQ extended this deadline to September 30, 2016). In your letter, you stated the investigation has been completed. Upon receipt of the Conceptual Site Model (CSM), the DEQ will evaluate the status of the investigation.
2. Per Paragraph 6.8, DCP must prepare and submit to the DEQ the CSM by December 31, 2016 (the DEQ extended this deadline to March 31, 2017). The CSM spells out the necessary remedial actions needed to achieve the performance objectives pursuant to Paragraph 6.1(e) of the FACD. In your letter, you stated that the CSM will be submitted by the March 31, 2017, deadline.
3. Per Paragraph 6.8(b), DCP must implement response activities on and off of the property no later than April 1, 2017, with all physical components of the remedial action constructed and fully operational by no later than December 31, 2019. In your letter, you have requested a one-year extension. This would extend the deadline to implement the remedial actions to April 1, 2018, and completed by December 31, 2020.

Pursuant to Paragraph 15.1 of the FACD, DCP must meet the three above-stated deadlines (Paragraphs 6.7 and 6.8 of the FACD) or meet extensions of the dates in order for the DEQ to waive and release DCP from the obligation to make three payments of \$69,003.19 each. If those requirements are not met, DCP is responsible for the payments.

Mr. John D. Wagner
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At this time the DEQ is unable to make a decision regarding your request for a one-year extension of the deadline outlined in Paragraph 6.8(b) of the FACD, which would extend the requirement to implement the remedial actions on and off the property to April 1, 2018. This decision will require knowledge of the anticipated remedial actions and the financial documentation requested above. At this time, the DEQ does not know what remedial actions DCP is planning to implement as the CSM has not been submitted for DEQ review. Again, any amendments to the FACD or requests for extensions need to be sought through the established mechanisms provided in the FACD.

Finally, the DEQ cannot act on the other proposals in your letter identified below. DCP will need to submit these requests with details and in accordance with the FACD.

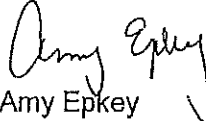
- DCP proposes to submit "reduced scope" quarterly progress reports.
- Regarding groundwater monitoring, DCP proposes to suspend sampling until the remedial action design and schedule are complete and then develop a plan and schedule well sampling at a frequency appropriate for the stage of response activities.
- DCP proposes that well samples are only analyzed for those parameters that are indicative of contaminants of concern.
- Regarding soil gas wells, DCP claims sample results show no posed risk; therefore, DCP proposes to discontinue soil gas sampling.
- DCP proposes an expansion or modification to the DCP wastewater treatment system, which may necessitate the treatment of contaminated groundwater as part of the remedial action.

Section III, "Statement of Purpose," of the FACD defines the intent of the FACD and its performance objectives. Paragraph 6.11 of the FACD describes elements necessary for the progress reports to document the efforts of DCP to achieve the performance objectives. Paragraph 6.8 provides a time line for the submittal of the facility CSM meeting Paragraph 6.1e requirements, including submittal of implementation schedules to address risks identified in the CSM for on and off of DCP's property. Therefore, DCP should provide a more detailed proposal to address the scope of work changes consistent with the provisions of the FACD within the CSM consistent with Paragraph 6.8 (a, b, and c). For these reasons, the DEQ must evaluate DCP's CSM prior to entertaining DCP's proposals to reduce its scope of work and its proposed timing to execute necessary work to address risks posed by its releases of hazardous substances into the environment.

Mr. John D. Wagner
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March 22, 2017

If you have any further questions regarding this matter, please contact Ms. Teresa Seidel, Division Director, WRD, at 517-284-5470; seidelt@michigan.gov; or DEQ, P.O. Box 30458, Lansing, Michigan 48909-7958; or you may contact me.

Sincerely,



Amy Epkey
Environment Deputy Director
517-284-6709

cc: Ms. Wendi Michael, BB&E, Inc.
Mr. Todd Fracassi, Pepper Hamilton, LLP
Mr. Brian Negele, Department of Attorney General
Mr. Michael McClellan, DEQ
Ms. Susan Leeming, DEQ
Ms. Lynn Fiedler, DEQ
Mr. Jack Schinderle, DEQ
Ms. Teresa Seidel, DEQ
Ms. Angela Brown, DEQ

Mr. John D. Wagner
Page 5
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bcc: Ms. Kathleen Shirey, DEQ
Mr. Mitch Adelman, DEQ
Mr. Dennis Eagle, DEQ
Mr. Jon Russell, DEQ
Ms. Stephanie Kammer, DEQ
Mr. Leonard Lipinski, DEQ
Ms. Carla Davidson, DEQ
Mr. Bryan Grochowski, DEQ
Mr. Malcomb Mead-O'Brien, DEQ
Ms. Rebecca Taylor, DEQ
Mr. Dan McGeen, DEQ
Ms. Lisa Agosta, DEQ

ATTACHMENT B



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING DISTRICT OFFICE



C. HEIDI GREETHER
DIRECTOR

December 28, 2017

CERTIFIED MAIL RETURN RECEIPT REQUESTED: 7014-0150-0001-0740-2031

Mr. John Wagner
Diamond Chrome Plating, Incorporated
604 South Michigan Avenue
P.O. Box 557
Howell, Michigan 48843

Dear Mr. Wagner:

SUBJECT: Denial of Diamond Chrome Plating's (DCP) Conceptual Site Model for their
Part 201 Facility at 604 South Michigan Avenue, Howell, Livingston County
First Amended Judicial Consent Decree (FACD) No. 03-1862-CE
Site ID: 47000202

The Department of Environmental Quality (DEQ), Remediation and Redevelopment Division (RRD), Lansing District Office, has completed its review of DCP's Conceptual Site Model (CSM) received April 3, 2017 (hard copy), and resubmitted August 30, 2017 (hard copy), to include missing appendices identified by DEQ staff reviewing the document. Submittal of the Diamond Chrome's CSM is a requirement pursuant to Section 6.8 of the above-referenced FACD that was due as a complete submittal on March 31, 2017.

The submittal did not include required Section 14.1 disclaimer language of the FACD: "Disclaimer: This document is a DRAFT document that has not received approval from the Michigan Department of Environmental Quality (MDEQ). This document was prepared pursuant to a court Consent Decree. The opinions, findings and conclusions expressed are those of the authors and not those of the MDEQ."

The DEQ evaluated the CSM submittal in terms of the DCP achieving the applicable performance factors detailed in Sections 6.1c and 6.1d of the FACD. These performance factors include the complete investigation of soil and groundwater contamination at the Facility to fully define the vertical and horizontal extent of contamination; evaluate groundwater contamination by analysis of contaminant concentrations over time on and off the property for purposes of developing a CSM consistent with the ASTM Standard Guide for developing Conceptual Site Models for Contaminated Sites, E1689-95 (Reapproved 2008); and complete an evaluation of exposure pathways to determine necessary response activities to achieve the objectives of the remedial actions, as provided in Section 6.1(e).

The DEQ review found that DCP's CSM submittal did not meet the above-referenced performance objectives. The submittal is therefore denied pursuant to Section 14.2 of the FACD due to numerous deficiencies. The reasons for the DEQ disapproval of this submittal are included in Attachment A of this communication pursuant to this section.

Denial of Diamond Chrome Plating's Conceptual Site Model
First Amended Judicial Consent Decree No. 03-1862-CE
Site ID: 47000202
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December 28, 2017

The deficiencies outlined in Attachment A must be corrected by DCP pursuant to Section 14.3 within 30 days or alternative timeframes specified by the DEQ for resubmission of the submittal for DEQ review and approval. Given the scope of the work necessary to correct the CSM deficiencies, the DEQ requires that the corrected and complete hard copy of the CSM be submitted to the DEQ, RRD, Lansing District Office, with the required "draft" language by **June 29, 2018**.

DCP is reminded that Section 14.3 of the FACD provides for the accrual of stipulated penalties if a complete CSM resubmittal is not received by the above-referenced due date. Further, denial of the CSM resubmittal by the DEQ is subject to stipulated penalties that accrue, starting from the date of the DEQ's denial and continuing until DCP delivers an approvable submission.

In consideration of the site-specific complexities involved with providing an acceptable CSM and the effort DCP has expended to conduct site evaluation work, the DEQ is holding in abeyance payment of past cost installments of \$69,003.19, referenced in Section 15.1 of the FACD, to encourage DCP to submit a corrected and acceptable CSM by the **June 29, 2018**, deadline.

At the time the corrected CSM submittal is due, the DEQ requests that DCP prepare and submit, pursuant to Section 6.8 (a) of the FACD, two separate remedial action implementation schedules, as described in Sections 6.8 (b) and 6.8 (c), for response activities to be conducted simultaneously on and off the DCP property encompassing the entire DCP facility.

Section 6.8 (c) of the FACD states that DCP's remedial action schedules shall provide a description of the specific work tasks that will be conducted, when they will be conducted, and a description of the objectives to be achieved for each task, including the cleanup category proposed pursuant to Section 20120a of Part 201. The response activity schedules shall also provide for submission of Progress Reports on a quarterly basis, as provided in Paragraph 6.11 of the FACD.

In the interim, DCP retains its obligation to perform response activities necessary to achieve and maintain compliance with Part 201 of the Natural Resources Environmental Protection Act, 1994 PA 451, as amended, and the Part 201 administrative rules.

If you have any questions regarding this communication or wish to arrange a technical meeting to discuss the CSM deficiencies prior to January 31, 2018, please contact Ms. Rebecca Taylor at 517-284-5160; taylorr@miichigan.gov; or you may contact me at 517-284-5089.

Sincerely,

Vicki Katto, acting for

Dennis Eagle, Supervisor
Remediation and Redevelopment
Lansing District Office

Enclosures: Attachment A and B

Denial of Diamond Chrome Plating's Conceptual Site Model
First Amended Judicial Consent Decree No. 03-1862-CE
Site ID: 47000202
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December 28, 2017

cc: Mr. Todd Fracassi, Pepper Hamilton LLP, with attachment A and B
Ms. Wendi Michael, BB&E, with attachments A and B
Mr. Brian Negele, AAG, with attachments A and B
Ms. Kathy Shirey, DEQ, with attachment A
Mr. David O'Donnell, DEQ, with attachment A
Mr. David LaBrecque, DEQ, with attachments A&B
Ms. Lisa Agosta, DEQ, with attachment A
Ms. Vicki Katko, DEQ, with attachment A
Ms. Alexandra Clark, DEQ, with attachment A
Ms. Maureen Nelson, DEQ, with attachment A
Mr. Malcolm Meade O'Brien, DEQ, with attachment A
Ms. Rebecca Taylor, DEQ, with attachments A&B
Mr. Dwight Cummings, DEQ, with attachments A&B
Mr. Bryan Grochowski, DEQ, with attachment A
Ms. Carla Davidson, DEQ, with attachment A
Mr. Dan McGeen, DEQ, with attachment A